

DENNIS D. MILLER (SBN 138669)
EUGENE CHANG (SBN 209568)
STEIN & LUBIN LLP
600 Montgomery Street, 14th Floor
San Francisco, CA 94111
Telephone: (415) 981-0550
Facsimile: (415) 981-4343
dmiller@steinlubin.com
echang@steinlubin.com

Attorneys for Defendants
DAVID J. KILLIAN, ANTHONY M. MAROTTA,
and ROSA COURT, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

VINCENT KAMYAR VAGHAR,

Plaintiff,

v.

DAVID J. KILLIAN; ANTHONY M.
MAROTTA; and ROSA COURT, LLC, a
New Jersey limited liability company,

Defendants.

Case No. C 07 4083 MMC

**DEFENDANTS DAVID J. KILLIAN'S,
ANTHONY M. MAROTTA'S, AND ROSA
COURT, LLC'S NOTICE OF MOTION
AND MOTION TO DISMISS SECOND
AMENDED COMPLAINT OF PLAINTIFF
VINCENT KAMYAR VAGHAR OR, IN
THE ALTERNATIVE, TO TRANSFER
VENUE**

Date: November 16, 2007

Time: 9:00 a.m.

Courtroom: 7

Judge: Honorable Maxine M. Chesney

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

Please take notice that on November 16, 2007, at 9:00 a.m., in Courtroom 7 before the Honorable Maxine M. Chesney, located at 450 Golden Gate Ave., San Francisco, California, Defendants David J. Killian, Anthony M. Marotta, and Rosa Court, LLC ("Defendants") will and hereby do move the Court for an order dismissing the action under Federal Rules of Civil Procedure 12(b)(2), 12(b)(3) and 28 U.S.C. § 1406(a) on the grounds that this Court lacks

1 personal jurisdiction over the Defendants and the action was not filed in the proper judicial venue.
2 None of the Defendants reside in California, nor have a substantial part of the alleged acts which
3 form the basis of Plaintiff's claims occurred in California. Rather, each of the Defendants either
4 reside in, or have their principal place of business, in Pennsylvania, and virtually all of the
5 activity which forms the basis of Plaintiff's claims occurred in Pennsylvania.

6 If the Court is not inclined to dismiss the action, Defendants will and hereby do
7 move, in the alternative, under 28 U.S.C. § 1404(a) and 28 U.S.C. § 1406(a) for an order
8 transferring the action to the U.S. District Court for the Eastern District of Pennsylvania on the
9 grounds that the convenience of the parties and the witnesses and the interest of justice will be
10 promoted by a transfer of this action.

11 The motion will be based on this Notice, the accompanying Memorandum of
12 Points and Authorities, the declarations of David J. Killian, individually and as co-managing
13 member of Rosa Court, LLC, and Anthony M. Marotta, and such further evidence or argument as
14 may be presented at or prior to the hearing.

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16 Dated: October 5, 2007

STEIN & LUBIN LLP

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18 By: /s/ Eugene Chang
19 EUGENE CHANG
20 Attorneys for Defendants
21 DAVID J. KILLIAN, ANTHONY M. MAROTTA,
22 and ROSA COURT, LLC
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